

**CIVIL NO. 2:07CV7  
(2:02CR104)**

**Respondent.**

Petitioner's motion pursuant to 28 U.S.C. § 2255 was dismissed by the undersigned on April 3, 2007, as untimely filed. He promptly filed notice of appeal and the Fourth Circuit upheld that dismissal. ***See Phillips v. United States*, 2007 WL 2164041 (4<sup>th</sup> Circ. July 25, 2007).** However, by letter dated August 13, 2007, the Fourth Circuit notified the Court that the Petitioner had filed a timely request for rehearing. Therefore, the Court has no jurisdiction to rule on the Petitioner's pending motion.

**IT IS, THEREFORE, ORDERED** that the Petitioner's petition for a *writ of mandamus* and his application to proceed in *forma pauperis* are hereby **DENIED**.

Signed: August 27, 2007

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

